

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PAUL R. ROSENBERGER,  
Petitioner,  
v.  
ANNA WOLF, et al.,  
Respondents. } Case No. CV 13-8491 GAF(JC)  
} ORDER SUMMARILY DISMISSING  
} PETITION FOR WRIT OF HABEAS  
} CORPUS  
}

## I. SUMMARY

On November 18, 2013, Paul R. Rosenberger (“petitioner”), who is currently housed at Patton State Hospital, and is proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (the “Petition”). The Petition, construed liberally, appears to challenge ongoing criminal “DUI” proceedings in Santa Barbara County Superior Court on the ground that petitioner is not guilty. (Petition at 2, 3).

As explained below, in light of the pendency of the state criminal proceedings in issue, this Court must abstain from considering petitioner's claim.

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1 pursuant to Younger v. Harris, 401 U.S. 37 (1971)<sup>1</sup> and must dismiss this action  
 2 without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases in  
 3 the United States District Courts.<sup>2</sup>

4 **II. DISCUSSION**

5 Except under narrow circumstances, federal courts abstain from interfering  
 6 with pending state criminal proceedings. See Younger v. Harris, 401 U.S. 37  
 7 (1971); see also 28 U.S.C. § 2283. Younger abstention is appropriate if: (1) there  
 8 are ongoing state judicial proceedings; (2) the proceedings implicate important  
 9 state interests; and (3) there is an adequate opportunity in the state proceedings to  
 10 resolve federal questions. Dubinka v. Judges of Superior Ct., 23 F.3d 218, 223  
 11 (9th Cir. 1994) (quotations and citations omitted). In this case, all three of the  
 12 Younger criteria are satisfied.

13 First, it is apparent from the Petition that petitioner is currently “awaiting  
 14 trial” on “DUI charges” in Santa Barbara County Superior Court. (Petition at 2).  
 15 See Columbia Basin Apartment Ass’n v. City of Pasco, 268 F.3d 791, 801 (9th Cir.  
 16 2001) (under first prong of Younger test, state proceedings deemed ongoing if state  
 17 court suit pending at time of federal suit’s filing); Drury v. Cox, 457 F.2d 764,  
 18 764-65 (9th Cir. 1972) (only in most unusual circumstances is defendant entitled to  
 19 have federal interposition by way of injunction or habeas corpus until after jury  
 20 comes in, judgment has been appealed from and case concluded in state courts).

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22 Second, the state has an important interest in passing upon and correcting

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25 <sup>1</sup>Federal courts may raise Younger abstention *sua sponte*. See Hoye v. City of Oakland,  
 653 F.3d 835, 843 n.5 (9th Cir. 2011).

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27 <sup>2</sup>Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts  
 28 requires a judge promptly to examine a federal habeas petition, and to dismiss it if “it plainly  
 appears from the petition and any attached exhibits that the petitioner is not entitled to relief in  
 the district court. . . .”

1 violations of a defendant's rights. See Roberts v. DiCarlo, 296 F. Supp. 2d 1182,  
 2 1185 (C.D. Cal. 2003) (citation omitted).

3 Third, petitioner has an adequate opportunity in the state proceedings,  
 4 including state appellate proceedings, to resolve any federal questions that may  
 5 arise during the proceedings. See Middlesex County Ethics Committee v. Garden  
 6 State Bar Ass'n, 457 U.S. 423, 432 (1982) (where vital state interests involved,  
 7 federal court should abstain unless state law clearly bars interposition of  
 8 constitutional claims) (citations and quotations omitted); United States ex rel.  
 9 Robinson Rancheria Citizens Council v. Borneo, Inc., 971 F.2d 244, 253 (9th Cir.  
 10 1992) (doctrine of abstention precludes party from obtaining relief in federal court  
 11 simply because party disagrees with result reached by state courts); Pennzoil Co.  
 12 v. Texaco, Inc., 481 U.S. 1, 15 (1987) (federal court should assume state  
 13 procedures will afford adequate opportunity for consideration of constitutional  
 14 claims in absence of unambiguous authority to contrary).

15 Because the Younger requirements are satisfied, this Court must abstain and  
 16 dismiss this action unless extraordinary circumstances exist. See Colorado River  
 17 Water Conservation Dist. v. United States, 424 U.S. 800, 817 n.22 (1976)  
 18 (Younger abstention not discretionary once conditions met); World Famous  
 19 Drinking Emporium, Inc. v. City of Tempe, 820 F.2d 1079, 1081 (9th Cir. 1987)  
 20 ("When a case falls within the proscription of Younger, a district court must  
 21 dismiss the federal action.") (citation omitted). Here, neither the claim asserted by  
 22 petitioner, nor anything else in the record suggest the existence of extraordinary  
 23 circumstances. See Younger, 401 U.S. at 45-46.

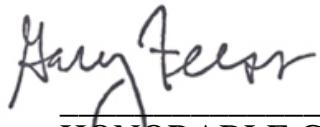
24 Consequently, this Court must abstain from considering petitioner's  
 25 challenge to his ongoing criminal proceedings and dismiss this action without  
 26 prejudice.

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28 **III. ORDER**

1 IT IS THEREFORE ORDERED that the Petition is dismissed without  
2 prejudice and that Judgment be entered accordingly.

3 DATED: December 4, 2013

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5 HONORABLE GARY A. FEESS  
6 UNITED STATES DISTRICT JUDGE

7 Presented by:<sup>3</sup>

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10 /s/  
11 Honorable Jacqueline Chooljian  
12 UNITED STATES MAGISTRATE JUDGE

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26 <sup>3</sup>Pursuant to Local Rule 72-3.2, the Magistrate Judge promptly shall examine a petition  
27 for writ of habeas corpus, and if it plainly appears from the face of the petition and any exhibits  
28 annexed to it that the petitioner is not entitled to relief, the Magistrate Judge may prepare a  
proposed order for summary dismissal and submit it and a proposed judgment to the District  
Judge.